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United Nations Open-ended Informal Consultative Process established by the General Assembly in its resolution 54/33 in order to facilitate the annual review by the Assembly of developments in ocean affairs
Third meeting
8-15 April 2002

Draft format and annotated provisional agenda

1. Pursuant to General Assembly resolution 54/33 of 24 November 1999, the two co-chairpersons appointed by the President of the General Assembly shall elaborate, in consultation with delegations, a format for the discussions of the Consultative Process that best facilitates its work, in accordance with the rules of procedure and practices of the General Assembly.

2. On the basis of consultations with delegations and of an informal preparatory meeting held at United Nations Headquarters on 15 February 2002, the co-chairpersons, Ambassador Tuiloma Neroni Slade (Samoa) and Mr. Alan Simcock (United Kingdom of Great Britain and Northern Ireland), propose to the third Meeting of the Consultative Process a draft format for discussions (see annex I) and an annotated provisional agenda (see annex II).

3. Descriptions of the areas of focus for two discussion panels are set out in appendices I and II to annex II, respectively, on protection and preservation of the marine environment and on capacity-building, regional cooperation and coordination, and integrated ocean management. They are intended solely as starting points for the discussions and their purpose is to identify important issues that the discussion panels may choose to consider, particularly by reference to the annual reports of the Secretary-General on oceans and the law of the sea.

4. The reference to the Consultative Process under which the present document is circulated is that adopted for the report of the co-chairpersons on the work of the second Meeting. Some delegations wished, in addition, to stress the link between the Consultative Process and the item in the preliminary list of items to be included in the provisional agenda of the fifty-sixth session of the General Assembly: "Oceans and the law of the sea". Some other delegations did not share this view. Nevertheless, it was noted that the General Assembly, in establishing the Consultative Process, in its resolution 54/33, had recalled that the United Nations

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Convention on the Law of the Sea sets out the legal framework within which all activities in the oceans and seas must be carried out, and with which those activities should be consistent, as recognized also by the United Nations Conference on Environment and Development in chapter 17 of Agenda 21, and had also recognized the importance of maintaining the integrity of the Convention.

5. The Meeting is invited to consider the draft format and the annotated provisional agenda and, as appropriate, to proceed with their adoption.

Annex I

Draft format for the third Meeting of the United Nations Open-ended Informal Consultative Process established by the General Assembly in its resolution 54/33 in order to facilitate the annual review by the Assembly of developments in ocean affairs

Method of work

1. Pursuant to General Assembly resolution 54/33 of 24 November 1999, the third Meeting of the Consultative Process will work through plenary sessions, and two discussion panels will provide opportunities for input from representatives of the major groups as identified in Agenda 21.

Agenda

2. The two co-chairpersons will propose to the third Meeting an annotated provisional agenda, setting out its programme of work and a timetable for plenary sessions and two discussion panels. The third Meeting will consider these proposals and adopt its agenda and timetable accordingly.

Plenary sessions

3. The plenary sessions will be open to participation by all those listed in paragraph 3 (a) of General Assembly resolution 54/33, that is, all States Members of the United Nations, States Members of the specialized agencies, all parties to the United Nations Convention on the Law of the Sea, entities that have received a standing invitation to participate as observers in the work of the General Assembly pursuant to its relevant resolutions, and intergovernmental organizations with competence in ocean affairs.

4. Within the constraints of the available accommodation, representatives of major groups as identified in Agenda 21 which have been allocated seats to participate in the discussion panels in accordance with paragraph 9 below will be free to be present to hear the discussions in the plenary sessions, in accordance with established practice.

5. In order to facilitate informal discussion, a plenary session may nevertheless decide to work in the absence of the representatives of such major groups.

Discussion panels

6. Each of the two discussion panels will consider one of the areas of focus identified in General Assembly resolution 56/12 of 28 November 2001. Only one discussion panel will be held at a time. Discussion panels will not be held at the same time as plenary sessions.

7. The discussion panels will be open to participation both by those entitled to participate in the plenary sessions and by representatives of major groups as identified in Agenda 21, to which seats have been allocated in accordance with paragraph 9 below.

8. The two co-chairpersons will propose, as part of the provisional agenda, descriptions of the areas of focus recommended in paragraph 48 of General Assembly resolution 56/12. In the light of consultations with delegations, they will invite not more than nine persons, chosen from among those mentioned in paragraph 7 above, to lead off the discussions in the sessions of the discussion panels, by making short presentations on questions relevant to the area of focus.

9. Seats at the discussion panels will be allocated to representatives of major groups as identified in Agenda 21 in the following manner:

(a) All organizations which represent major groups as identified in Agenda 21 and which are entitled to consultative status with the Economic and Social Council or its Commission on Sustainable Development will be entitled to apply for a seat to be allocated to them;

(b) Within the constraints of the space available, seats will be allocated to such of those organizations as have indicated their wish to participate in any of the discussion panels;

(c) If space does not permit seats to be allocated to all the organizations that wish to attend, the co-chairpersons, in consultation with the United Nations Secretariat, will make such allocations of seats as they consider will best contribute to the work of the process, taking into account:

(i) The relevance of the work of the organizations concerned to the areas of focus of the respective discussion panels;

(ii) The need for balance in representation between the different major groups with interests in those areas of focus;

(iii) The relationship of the organizations to the differing characteristics and needs of the different regions of the world, together with the principle of equitable geographical representation, and the need for an appropriate balance between major groups from developed and developing countries;

(iv) The need to provide expert inputs to the discussion of the areas of focus.

Report of the third Meeting

10. The report of the third Meeting will consist of:

(a) A statement of:

(i) Agreed issues to be suggested to the General Assembly for consideration;

(ii) Agreed elements related to those issues to be proposed for consideration by the General Assembly, in relation to resolutions of the Assembly under its agenda item entitled "Oceans and the law of the sea";

(b) A summary by the co-chairpersons of the discussions that have taken place during the third Meeting, including those in the discussion panels;

(c) A note by the co-chairpersons on issues that could benefit from attention in future work of the General Assembly on oceans and the law of the sea in the light of the Assembly's review of the effectiveness and utility of the Consultative Process.

Annex II

Annotated provisional agenda for the third Meeting of the United Nations Open-ended Informal Consultative Process established by the General Assembly in its resolution 54/33 in order to facilitate the annual review by the Assembly of developments in ocean affairs

Monday, 8 April 2002 **10 a.m.-1 p.m.**

First plenary session

Agenda item 1. Opening of the Meeting

1. In the light of General Assembly resolution 54/33 setting up the Consultative Process, there will be no election of officers.

2. Mr. Hans Corell, Under-Secretary-General for Legal Affairs and the Legal Counsel, and Mr. Nitin Desai, Under-Secretary-General for Economic and Social Affairs, will open the proceedings on behalf of the Secretary-General of the United Nations.

Agenda item 2. Approval of the format of the Meeting and adoption of the agenda

3. General Assembly resolution 54/33 provides that the co-chairpersons shall elaborate, in consultation with delegations, a format for the discussions that best facilitates the work of the Consultative Process, in accordance with the rules of procedure and practices of the General Assembly.

4. The present document sets out the proposals of the two co-chairpersons. The third Meeting is invited to consider and, as appropriate, to approve:

(a) The format for the third Meeting;

(b) The agenda for the third Meeting and the timetable for plenary sessions and discussion panels.

Agenda item 3. Exchange of views on areas of concern and actions needed (based on the report of the Secretary-General on oceans and the law of the sea)

5. General Assembly resolution 54/33 provides that, consistent with the legal framework provided by the United Nations Convention on the Law of the Sea and the goals of chapter 17 of Agenda 21, the Consultative Process is to facilitate the annual review by the General Assembly, in an effective and constructive manner, of developments in ocean affairs by considering the reports of the Secretary-General on oceans and the law of the sea and by suggesting particular issues to be considered by it, with an emphasis on identifying areas where coordination and cooperation at the intergovernmental and inter-agency levels should be enhanced.

6. To this end, delegations are invited to address specifically the following questions:

(a) Whether there are urgent needs to improve coordination or cooperation at an intergovernmental or inter-agency level in relation to:

(i) Any of the fields covered by the reports of the Secretary-General;

(ii) Issues common to more than one of those fields; or

(iii) Obstacles which hinder the implementation of international instruments in those fields or the realization of benefits flowing from such instruments; and

(b) If so, what specific actions or solutions might be suggested to the General Assembly for consideration in order to help to meet such needs.

3-6 p.m.

Second plenary session

Agenda item 3. Exchange of views on areas of concern and actions needed (continued)

7. This agenda item will be further considered.

Tuesday, 9 April 2002 **10 a.m.-1 p.m.**
3-6 p.m.

Discussion Panel A
Protection and Preservation of the Marine Environment

8. A description of the area of focus for this discussion panel is contained in appendix I.

Wednesday, 10 April 2002 **10 a.m.-1 p.m.**

Discussion Panel A (*continued*)

3-6 p.m.

Discussion Panel B
Capacity-building, Regional Cooperation and Coordination and Integrated Ocean Management

9. A description of the area of focus for this discussion panel is contained in appendix II.

Thursday, 11 April 2002 **10 a.m.-1 p.m.**
3-6 p.m.

Discussion Panel B (*continued*)

Friday, 12 April 2002 10 a.m.-1 p.m.

Third plenary session

Agenda item 4. Exchange of views on collaboration and coordination on oceans issues

10. The General Assembly, in its resolution 56/12, requested the Secretary-General to ensure more effective collaboration and coordination between the relevant parts of the Secretariat of the United Nations and the United Nations as a whole, in particular in ensuring the effectiveness, transparency and responsiveness of the mechanism for coordination on ocean issues. The Chairman of the former Subcommittee on Oceans and Coastal Areas (SOCA) of the Administrative Committee on Coordination will be invited to share his experience about coordination on oceans issues and to offer his views on the functioning of that Subcommittee and on the lessons to be learned. National delegations may wish to comment on actions that they believe could assist in ensuring the effectiveness of collaboration and coordination on oceans issues.

Agenda item 5. Identification by the co-chairpersons of issues that could benefit from attention in future work of the General Assembly on oceans and the law of the sea in the light of the Assembly's review of the effectiveness and utility of the Consultative Process

11. The Meeting will be invited to consider issues that could benefit from attention in future work of the General Assembly. The discussion could be based on the lists contained in the reports of the first and second Meetings of the Consultative Process (A/55/274, part C, and A/56/121, part C).

> ***NOTE***. If need be, the consideration of agenda item 4 will be continued in an additional session on Friday, 12 April, from 3 to 6 p.m. Otherwise, delegations will be free to review the draft statement of agreed issues and agreed elements (see para. 10 (a) of the draft format).

Monday, 15 April 2002 10 a.m.-1 p.m.

Fourth plenary session

Agenda item 6. Report on the work of the Meeting — agreed issues and agreed elements

12. The Meeting will be invited to consider the draft statement in order to reach consensus on issues to be suggested to the General Assembly for consideration and on elements related to those issues to be proposed for consideration by the Assembly in relation to resolutions of the Assembly under its agenda item entitled "Oceans and the law of the sea".

13. A draft statement of the agreed issues and agreed elements (see draft format, para. 10 (a)) will be made available by 1 p.m. on Friday, 12 April.

Agenda item 7. Report on the work of the Meeting — other elements

14. Drafts by the co-chairpersons of the summary discussions that have taken place during the third Meeting, including those in the discussion panels, and of the note on issues that could benefit from attention in future work of the General Assembly on oceans and the law of the sea in the light of the Assembly's review of the effectiveness and utility of the Consultative Process will be made available by 9 a.m. on Monday, 15 April.

15. The Meeting will be invited to comment on the co-chairperson's summary and note.

3–6 p.m.

Fifth plenary session

Agenda items 6 and 7 — Report on the work of the Meeting (continued)

16. The Meeting will be invited to complete its consideration of the draft report on the work of the Meeting.

Appendix I

Discussion Panel A
Protection and Preservation of the Marine Environment

Description of the area of focus

General points of departure

1. "States have the obligation to protect and preserve the marine environment" (*United Nations Convention on the Law of the Sea (UNCLOS), article 192*).

2. "States have the sovereign right to exploit their natural resources pursuant to their environmental policies and in accordance with their duty to protect and preserve the marine environment " (*UNCLOS, article 193*).

3. "Economic development, social development and environmental protection are interdependent and mutually reinforcing components of sustainable development. Sustained economic growth is essential to the economic and social development of all countries, in particular developing countries" (*Programme of Action for the Further Implementation of Agenda 21, General Assembly resolution S/19-2, annex, para. 23*).

4. The general provisions of Part XII of UNCLOS also include:

(a) A general obligation on States to take all measures, consistent with UNCLOS, that are necessary to prevent, reduce and control pollution of the marine environment from any source;

(b) A requirement that the measures taken in accordance with Part XII shall include those necessary to protect and preserve rare or fragile ecosystems as well as the habitat of depleted, threatened or endangered species and other forms of marine life (*article 194 (1) and (5)*).

5. In 1992, the United Nations Conference on Environment and Development set out principles relevant to the implementation of these and other requirements. Particularly relevant are:

(a) The principle of the precautionary approach (*Rio Declaration, principle 15*);

(b) That polluters should bear the cost of pollution — the "polluter pays" principle (*Rio Declaration, principle 16*).

Structure of the description of the area of focus

6. Given the themes covered by Part XII of UNCLOS, it may be helpful to consider:

(a) The way in which an integrated approach to the protection and preservation of the marine environment can be achieved (including the role of monitoring and assessment);

(b) The international cooperation and coordination needed to establish and implement common international standards for activities that may pollute the marine environment;

(c) The practical measures needed to underpin States' activities in protecting and preserving the marine environment.

Part I
An integrated approach

7. "The problems of ocean space are closely interrelated and need to be considered as a whole through an integrated, interdisciplinary and intersectoral approach" (*General Assembly resolution 56/12, sixth preambular paragraph, echoing the third preambular paragraph of UNCLOS*).

8. The anthropogenic factors which most significantly affect the marine environment are fisheries, land-based activities (including discharges and emissions and physical degradation), the sea-based activities of shipping, dumping, exploration for, and exploitation of, offshore oil, gas and other minerals (including that in the Area) and offshore construction for other purposes, as well as coastal development and climate change.

9. UNCLOS provides specifically for the collection, and sharing between States, of data on the impact of fisheries (*articles 61 (5), 64 and 119 (2)*) and of other human activities capable of polluting, or having an adverse effect on, the marine environment (*articles 200, 204, 205 and 206*), as well as for the promotion and publication of marine scientific research (*articles 238-265 in Part XIII*).

10. Such data can provide the basis for integrated assessments of the marine environment, in order to guide the establishment of priorities for action for protecting and preserving the marine environment, to identify aspects of that protection and preservation which are not receiving sufficient attention and to call attention to intersectoral linkages which need to be taken into account.

11. Mechanisms are needed to produce assessments based on these data. A number of initiatives are already in place to carry out such assessments, including the periodic reports by the Joint Group of Experts on the Scientific Aspects of Marine Environmental Protection (GESAMP), the Global International Waters Assessment (GIWA) and the Global Ocean Observing System, as well as various regional initiatives. In addition, the Governing Council of the United Nations Environment Programme has requested its Executive Director to explore the feasibility of establishing a regular process for the assessment of the state of the marine environment.

12. Leaving aside the issues covered in appendix II, the issues highlighted by recent integrated assessments include:

(a) Better management of fisheries, in order to contribute to food security, poverty eradication and economic growth and to reduce the risks from over-exploitation of fisheries that are poorly managed or have open access;

(b) The risks to public health from poor management of sewage, and (in some areas) the potential consequent impact on the tourist industry;

(c) Poor management of the coastal zone, and the consequent threats to food security from pollution, excessive nutrient inputs and physical change that affect important living marine resources;

(d) The threats from inadequate control of hazardous substances, particularly those that can have a transboundary impact;

(e) The risks of pollution and the spread of non-indigenous organisms by vessels that fail to meet international standards of construction, seaworthiness, navigation and management;

(f) The risks from inadequate evaluation of the potential impact of new uses of the marine environment, such as offshore wind-energy generation.

Specific questions for discussion

13. **How do we improve existing arrangements for the collection and sharing of data, and for the production of integrated assessments to diagnose the problems of the marine environment in order to ensure that policy makers and managers are aware of major problems as they emerge?**

14. **Where international cooperation and coordination are needed to address a problem, do existing arrangements provide sufficient links from diagnosis to the action which is needed as part of an integrated ecosystem-based approach to the management of oceans and coastal areas? If not, how can this linkage be improved?**

Part II
International rules and standards and their enforcement

15. UNCLOS requires States to endeavour to establish at the global or regional level, as appropriate, international provisions (rules, standards, recommended practices and/or procedures, according to the sector) for the prevention, reduction and control of pollution from various sources:

(a) Land-based sources *(article 207 (4))*;

(b) Seabed activities subject to national jurisdiction (*articles 208 (5) and 60 (3)*);

(c) Seabed activities in the Area *(article 209 (1))*;

(d) Dumping *(article 210 (4))*;

(e) Vessels *(article 211 (1))*;

(f) Air-borne pollution *(article 212 (3))*.

16. Much has been achieved to fulfil these requirements through binding agreements and/or non-binding instruments (soft law) at the global and regional levels:

(a) ***For land-based sources***. The 1995 Washington Global Programme of Action for the Protection of the Marine Environment from Land-based Activities, reviewed in Montreal in November 2001, together with many regional agreements, including most recently the 1999 Aruba Protocol concerning Pollution from Land-based Sources and Activities to the 1983 Cartagena Convention for the Protection and Development of the Marine Environment of the Wider Caribbean Region;

(b) ***For seabed activities subject to national jurisdictions***. In 1996, the Commission on Sustainable Development concluded that "there is no compelling need at this time to further develop globally applicable environmental regulations in respect of the exploitation and exploration aspects of offshore oil and gas activities" (*decision 4/15, para. 26*); and in 1999, the Commission recommended that "the primary focus of action on the environmental aspects of offshore oil and gas

operations continue to be at the national, subregional and regional levels" (*decision 7/1, para. 36 (a)*). In line with this, many regional agreements have been implemented, and exchanges on good practice and procedure have been organized at the global level;

(c) ***For sea-based activities in the Area***. The International Seabed Authority in 2000 adopted the Regulations on Prospecting and Exploration for Polymetallic Nodules in the area under the jurisdiction of the International Seabed Authority ("the Area");

(d) ***For dumping***. The 1972 London Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter has long governed these issues, and has been revised and amended by the 1996 Protocol thereto;

(e) ***For vessels***. The 1973/1978 MARPOL Convention is the central instrument, and is supported by a wide range of other international agreements adopted under the auspices of the International Maritime Organization, including those to promote the safety of navigation (responding to the requirements of article 194 (3) (b) of UNCLOS);

(f) ***For air-borne pollution***. The 2001 Stockholm Convention on Persistent Organic Pollutants was developed in response to concerns on long-range air-borne pollution of the seas expressed in the negotiations on the Global Programme of Action to Protect the Marine Environment from Land-based Activities. In addition, there are regional agreements such as the United Nations Economic Commission for Europe's Convention on Long-range Transboundary Air Pollution.

17. UNCLOS foresees the implementation of such international provisions by their incorporation in national legislation (as a minimum requirement) and the enforcement of that legislation, and provides that:

(a) States shall adopt laws and regulations on pollution from land-based sources and pollution through the atmosphere, taking into account international provisions, and shall enforce this legislation and implement applicable international provisions (*articles 207 (1), 212 (1), 213 and 222*);

(b) States shall adopt laws and regulations and (except in the Area) take other measures on pollution from seabed activities and from dumping, which shall be no less effective than international (or, for dumping, global) rules. States shall enforce this legislation within their jurisdiction (including, for flag States, on vessels flying their flags) and ensure that their nationals and bodies controlled by such nationals comply with the requirements applicable in the Area (*articles 208 (1), (2) and (3); 209 (2); 210 (1), (2) and (6); 214 and 139*);

(c) Flag States shall adopt laws and regulations on pollution from vessels that shall at least have the same effect as that of generally accepted international rules and standards. States may adopt particular requirements as a condition of entry to their ports or internal waters. Coastal States (subject to certain provisions) may adopt laws and regulations on pollution from vessels within their territorial waters, and to give effect in their exclusive economic zones to generally accepted international rules and standards and (in particularly sensitive areas) to specially agreed rules, standards or navigational practices (*article 211*). Articles 217 to 220 and 223 to 233 then set out a code for the enforcement of such legislation by flag States, port States and coastal States.

Specific questions for discussion

18. **What action could be taken at the global or regional level to improve the implementation and enforcement of international rules, standards and recommended practices and procedures, as appropriate, for the specific sectors for which they are foreseen in UNCLOS? What initiatives would it be appropriate to undertake in order to promote effective implementation of other legal and voluntary agreements?**

19. **What further international cooperation or coordination would be appropriate to assist States in fulfilling their obligations to adopt laws or regulations or to take measures to give effect to international provisions to protect and preserve the marine environment and to take appropriate enforcement action?**

Part III
Practical measures to underpin States' activities

Monitoring and assessment

20. The General Assembly has stressed the importance of increasing the scientific understanding of the oceans/atmosphere interface and other factors required for an integrated ecosystem-based approach to the management of oceans and coastal areas (*resolution 56/12, para. 27*). UNCLOS provides for the international community to provide appropriate assistance, especially to developing States, for the preparation of environmental assessments (*article 202 (c)*).

21. **What further international coordination and cooperation would be appropriate to improve access to the existing bases of information and knowledge about the marine environment in order to improve integrated assessments and thus the diagnosis of its problems and solutions to them? What further assistance would be appropriate to aid in the preparation of integrated environmental assessments?**

Specific issues

22. Some of the main issues that have been identified in recent integrated environmental assessments are listed in paragraph 12.

23. **Are there any new or additional forms of international cooperation or coordination that could help States address such issues?**

Collective response to emergencies

24. All systems of regulation and management have to cope with accidents and emergencies. UNCLOS provides for notification between States about imminent or actual damage and, with the involvement of the competent international organizations, for the development of contingency plans to handle pollution incidents (*articles 198 and 199*). It also provides for appropriate assistance for minimizing the effects of major incidents that may cause serious pollution of the marine environment (*article 202 (b)*).

25. The International Maritime Organization has developed the 1990 International Convention on Oil Pollution Preparedness, Response and Cooperation (OPRC

Convention), which entered into force in 1995. The 2000 Protocol on Preparedness, Response and Cooperation to Pollution Incidents by Hazardous and Noxious Substances (HNS Protocol) follows the principles of the OPRC Convention, but has not yet entered into force.

26. Some regional centres have been established to assist States in implementing their obligations under these Conventions. Some regions also have regional conventions, agreements or protocols covering these issues.

27. **Does the system that has developed adequately implement the requirements of UNCLOS? What further initiatives for international cooperation and coordination could usefully promote the implementation of these agreements?**

Regional considerations

28. An integrated approach to the marine environment implies that integration is required at the global, regional and national levels. Action in any region may be coordinated in many different ways and under a number of different international instruments.

29. **Are there any new or additional international initiatives that could promote an integrated approach to the marine environment at the regional level?**

Appendix II

Discussion Panel B
Capacity-building, Regional Cooperation and Integrated Ocean Management

Description of the area of focus

Scope of the Discussion Panel

1. The United Nations General Assembly has recommended that one area of focus for the third session of the Consultative Process shall be "capacity-building, regional cooperation and coordination, and integrated ocean management, as important cross-cutting issues to address ocean affairs, such as marine science and the transfer of technology, sustainable fisheries, the degradation of the marine environment and the safety of navigation" (*resolution 56/12, para. 48 (b)*).

2. The United Nations Convention on the Law of the Sea (UNCLOS) is an integrated instrument: it is intended to be implemented as a whole. This is emphasized by the prohibition on reservations and exceptions (*article 309*) and is a point which has been repeatedly stressed by the General Assembly, most recently in its resolution 56/12, where it reaffirmed that the integrity of UNCLOS needs to be maintained (*fourth preambular paragraph*).

3. This implies that attention must be given to the implementation of all parts of UNCLOS, and that cross-cutting issues must be considered in relation to all those parts, and not just some.

Part I
Capacity-building

Points of departure

4. The General Assembly has underlined once again the essential need for capacity-building to ensure that all States, especially developing countries, in particular least developed countries and small island developing States, are able both to implement UNCLOS and to benefit from sustainable development of the oceans and the seas (*resolution 56/12, twelfth preambular paragraph*).

5. Agenda 21 states that "the ability of a country to follow sustainable development paths is determined to a large extent by the capacity of its people and institutions as well as by its ecological and geographical conditions. Specifically, capacity-building encompasses the country's human, scientific, technological, organizational, institutional and resource capabilities" (*chap. 37, para. 37.1*).

6. Although UNCLOS does not use the phrase "capacity-building", it contains over 25 references to the need to help developing States and take their concerns into account. These specific references to capacity-building in developing States can be grouped under the following main headings:

(a) ***The Area***: developing the research capabilities of developing States and training their personnel so that they can participate in scientific research in the Area;

encouraging and facilitating the transfer to developing States and their nationals of skills and technology with regard to activities in the Area (*article 143 (3), subject to the provisions of the Implementation Agreement, and article 273*);

(b) ***The marine environment***: promoting programmes of scientific, educational, technical and other assistance to developing States, including training their scientific and technical personnel, facilitating their participation in relevant international programmes, supplying them with the necessary equipment and facilities, enhancing their capacity to manufacture such equipment, and providing advice on, and developing facilities for, research, monitoring, education and other programmes (*article 202 (a)*);

(c) ***Marine scientific research and transfer of technology***: promoting the flow of information from marine scientific research to developing States and strengthening their autonomous marine scientific research capabilities; promoting the development of the marine scientific and technological capacity of developing States; developing human resources through the training and education of nationals of developing States; coordination of international programmes, taking into account the interests and needs of developing States; and promoting the establishment of regional centres in order to stimulate and advance the conduct of marine scientific research by developing States and to foster the transfer of technology to them (*articles 244 (2), 266, 269, 272, 273 and 276*).

7. Moreover, UNCLOS makes specific reference to the need to take into account the interests of developing States (*articles 62, 69, 70*). These references also imply the importance of capacity-building in this context, so that developing States are in a position to benefit from these provisions.

8. In addition to the capacities and facilities covered by such specific provisions, developing States share the needs of all States for a wide range of capabilities and capital assets in order to fulfil their obligations under UNCLOS. These capabilities and capital assets include the capacities:

(a) To chart the seas under their jurisdiction, to monitor ship movements, to provide the necessary navigational aids and to carry out search and rescue at sea, in order to promote safety of navigation;

(b) To collect and assess information on both the living and the non-living resources of the sea, and to take and implement policy decisions on the exploitation of such resources in the light of this information;

(c) To enforce fisheries management decisions, both at sea and onshore;

(d) To enforce the national laws and regulations adopted in pursuance of UNCLOS, in respect of both the vessels and the waters under the State's jurisdiction; such enforcement includes both physical controls (by supervising vessels flying the national flag and those using the seas and ports under national jurisdiction) and legal processes (by investigating and prosecuting breaches at sea of national legal requirements);

(e) To respond to marine environmental accidents and emergencies;

(f) To pursue marine scientific research, by research cruises, by collection of information on land and by laboratory research.

Specific questions for discussion

9. **Are there sufficiently comprehensive programmes in place for international cooperation to support the building of all these capacities, and the investment in the related capital assets? Do bilateral and multilateral development programmes and institutions give sufficient priority to enabling developing States to take advantage of their rights, and to fulfil their obligations, under UNCLOS? Do any specific types of capacities and capital assets need increased attention?**

10. **Do the programmes of international cooperation support adequately the processes both in central government (developing policies, adopting laws and regulations and planning developments) and in the field (implementing policies and enforcing legal requirements, collecting and interpreting scientific data, operating navigational and other installations and responding to emergencies)?**

11. **Are the programmes of international cooperation supporting sufficiently both the development of the cases for investment projects and the mobilization of resources to support that investment?**

Part II
Regional cooperation

Points of departure

12. UNCLOS places considerable emphasis on the regional level as a focus for international cooperation. The main fields in which this is foreseen include:

(a) ***Fisheries***. Regional arrangements are seen as a major focus for managing living marine resources (*articles 61-64, 66, 69, 70, 118, 119 and 123*);

(b) ***Shipping emergencies***. Where circumstances so require, States are to collaborate at a regional level in establishing, operating and maintaining an adequate and effective search and rescue service (*article 98 (2)*);

(c) ***Marine environment***. Regional arrangements are seen as a major focus for agreeing on appropriate international rules and standards to prevent, reduce and control pollution of the sea and to respond to environmental accidents and emergencies (*articles 123, 197, 200, 207, 208, 210-212*);

(d) ***Marine scientific research and transfer of technology***. International cooperation at all levels, including the regional level, is a basic objective in marine scientific research, to be accompanied by regional programmes, the development of the technological infrastructure to support the transfer of technology and the coordination of the programmes of international organizations; regional centres are an important part of all this (*articles 268, 270, 272, 276 and 277*).

Specific questions for discussion

13. **Are the necessary institutions in place to support such regional cooperation in all the regions where it is needed? If not, what steps could promote their formation or strengthening? How can political commitment to regional cooperation be achieved?**

14. Given the need for an integrated policy approach to the implementation of UNCLOS and the management of human activities affecting the seas, are the necessary arrangements in place to ensure that regional cooperation in the different fields delivers an integrated approach? If not, what steps could improve the integration of policy between the different aspects of regional cooperation? How can opportunities for synergy between regional cooperation in different fields be identified and pursued?

Part III
Integrated ocean management

Points of departure

15. An integrated approach to the seas is inherent in UNCLOS: the third preambular paragraph of UNCLOS emphasizes that the problems of ocean space are closely interrelated and need to be considered as a whole. The General Assembly has pointed to an integrated ecosystem-based approach to the management of oceans and coastal areas as a desideratum (*resolution 56/12, para. 27*).

16. The Joint Group of Experts on the Scientific Aspects of Marine Environmental Protection (GESAMP) has underlined, in its report No. 70 (*A Sea of Troubles*) the case for integrated coastal management, integrating the management of coastal areas and the associated watersheds, and thereby recognizing the interdependence of freshwater (including groundwater), coastal and marine systems.

17. Chapter 17 of Agenda 21, entitled "Protection of the oceans, all kinds of seas, including enclosed and semi-enclosed seas, and coastal areas and the protection, rational use and development of their living resources", in section A, deals with "integrated management and sustainable development of coastal and marine areas, including exclusive economic zones". It sets as the objectives:

(a) To provide for an integrated policy and decision-making process, including all involved sectors, to promote compatibility and a balance of uses;

(b) To identify existing and projected uses of coastal areas and their interactions;

(c) To concentrate on well-defined issues concerning coastal management;

(d) To apply preventive and precautionary approaches in project planning and implementation, including prior assessment and systematic observation of the impacts of major projects;

(e) To promote the development and application of methods, such as national resource and environmental accounting, that reflect changes in value resulting from uses of coastal and marine areas, including pollution, marine erosion, loss of resources and habitat destruction;

(f) To provide access, as far as possible, for concerned individuals, groups and organizations to relevant information and opportunities for consultation and participation in planning and decision-making at appropriate levels.

18. Section A of chapter 17 of Agenda 21 goes on to identify the following actions as a means towards achieving those objectives:

(a) Establishing, or where necessary strengthening, appropriate coordinating mechanisms for integrated management and sustainable development of coastal and marine areas and their resources, at both the local and national levels. Such mechanisms should include consultation, as appropriate, with the academic and private sectors, non-governmental organizations, local communities, resource user groups and indigenous people. The work of such national coordinating mechanisms can be summarized as including:

(i) Preparation and implementation of integrated coastal and marine plans and programmes, including the identification of critical areas, physical processes, development patterns, user conflicts and specific management priorities;

(ii) Prior environmental impact assessment, systematic observation and follow-up of major projects;

(iii) Contingency plans for anthropogenic and natural disasters;

(iv) Improvement of coastal human settlements, especially in housing, drinking water and treatment and disposal of sewage, solid wastes and industrial effluents;

(v) Integration of sectoral programmes on sustainable development for settlements, agriculture, tourism, fishing, ports and industries affecting the coastal area;

(b) Measures to maintain biological diversity and productivity of marine species and habitats under national jurisdiction;

(c) Collection, analysis, assessment and application of information for sustainable use of resources.

19. There is, however, no agreed definition of what precisely should be understood by "integrated ocean management" or "an ecosystem-based approach to management". This lack of agreement hampers discussion on how the goal of integrated management should best be pursued.

Specific questions for discussion

20. **How can the concept of integrated ocean management best be developed and applied, taking into account the ideas embodied in Agenda 21 on some of its necessary ingredients?**

21. **How should the concept of integrated ocean management be applied in a system that is necessarily focused on the different sectors of human activities that involve the oceans and seas?**

22. **How should the concept of integrated ocean management be applied at the regional level, where many aspects of the management of human activities affecting the oceans and seas are necessarily focused?**